

Message

From: Baltera, Danielle [baltera.danielle@epa.gov]
Sent: 1/21/2021 3:14:36 PM
To: Melvin, Karen [Melvin.Karen@epa.gov]; Armstrong, Joan [Armstrong.Joan@epa.gov]; Gilley, Anne [Gilley.anne@epa.gov]; Hall, Kristen [hall.kristen@epa.gov]
Subject: RE: Gossip Alert - Ali possible OAR AA

Yes, I know him well. He is an excellent choice! Fingers-crossed he is selected.

From: Melvin, Karen <Melvin.Karen@epa.gov>
Sent: Thursday, January 21, 2021 10:14 AM
To: Baltera, Danielle <baltera.danielle@epa.gov>; Armstrong, Joan <Armstrong.Joan@epa.gov>; Gilley, Anne <Gilley.anne@epa.gov>; Hall, Kristen <hall.kristen@epa.gov>
Subject: RE: Gossip Alert - Ali possible OAR AA

I didn't know him. Good?

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From: Baltera, Danielle <baltera.danielle@epa.gov>
Sent: Thursday, January 21, 2021 10:13 AM
To: Armstrong, Joan <Armstrong.Joan@epa.gov>; Melvin, Karen <Melvin.Karen@epa.gov>; Gilley, Anne <Gilley.anne@epa.gov>; Hall, Kristen <hall.kristen@epa.gov>
Subject: Gossip Alert - Ali possible OAR AA

FYI...Ali from DE being considered for OAR AA.

January 21, 2021

Potential Nominees For EPA Air Chief Balance State, Agency Experience

January 15, 2021

President-elect Joe Biden is said to be considering potential nominees to head EPA's air office that offer a mix of state-level and federal experience, sources say, with the incoming administration aiming to balance a need for "insider" knowledge with fresh perspectives on issues such as climate change and environmental justice (EJ).

Sources confirm that there are at least three leading contenders for the key role of assistant administrator for the Office of Air & Radiation (OAR): former Obama EPA senior air office counsel Joseph Goffman, currently serving as executive director of the environmental and energy law program at Harvard Law School; Alberto Ayala, the Sacramento area's executive air director and former deputy executive director at the California Air Resources Board (CARB); and Ali Mirzakhaili, Oregon's top air regulator and former air director for Delaware.

Biden, a former Democratic senator from Delaware, this week announced a plan to nominate former Obama EPA acting air chief Janet McCabe to be the agency's deputy administrator. McCabe became OAR acting head after the elevation of then-air chief Gina

McCarthy to lead EPA under President Barack Obama, and sources say she is highly regarded for her competence and willingness to listen to state concerns in particular.

One industry source told *Inside EPA* they were pleased with the planned nomination of McCabe as deputy administrator, which suggests she might be able to draw bipartisan support in Congress.

McCarthy, a former state environmental regulator, is tapped to become White House domestic policy 'tsar' for Biden and will have a staff of experts at her disposal that the transition team also added to this week. Among the new appointees is David Hayes, who will be special assistant to Biden on climate policy. Hayes served as deputy Interior secretary during the Obama and Clinton administrations and currently is executive director of the State Energy and Environmental Impact Center at New York University School of Law.

But the role of OAR chief will be central to achieving Biden's ambitious climate agenda, as well as for implementing Clean Air Act rules for a host of industrial sectors.

Among the candidates to lead the office, Goffman served alongside both McCarthy and McCabe during the development of some of the Obama era's most consequential air and climate rules, and is intimately acquainted with the possibilities -- and limitations -- of using Clean Air Act authorities in novel ways to solve new problems, sources say. For example, the trio worked together on the Clean Power Plan (CPP), a state-based plan to cut power plant greenhouse gas emissions that ultimately was stayed by the courts and then scrapped by the Trump administration in favor of the much narrower Affordable Clean Energy (ACE) rule that also faces legal challenges.

Goffman is also a veteran of battles over interstate air pollution transport, such as the development of the 2011 Cross-State Air Pollution Rule (CSAPR) emissions trading program, and also air toxics issues, including the landmark 2012 mercury and air toxics standards (MATS) for power plants.

The Trump EPA removed the legal underpinning of MATS by scrapping a finding that it is "appropriate and necessary" to regulate power plants' air toxics emissions, precipitating a major legal fight that will require the Biden administration to quickly change agency policy if MATS is to be preserved.

Equity Priority

One air regulator says, however, that although Goffman knows the Clean Air Act "inside and out," he might be at a disadvantage relative to the two state regulators on some issues, particularly EJ. Environmental equity is a top priority for Biden and his choice to be EPA administrator, Michael Regan, currently is North Carolina's top state regulator.

Goffman "has a well-known background in promoting cap-and-trade programs, and I'd wonder how the EJ community would react if he's nominated," the regulator says.

EJ advocates were critical of the potential candidacy of outgoing CARB chief Mary Nichols to be EPA administrator, in part because of her support for cap-and-trade emissions control programs in California.

The regulator adds of Goffman, "I don't think he has much background working at the state-level, so I wonder if state concerns, where valid, may get discounted." In contrast, "the other two obviously come from the state-side perspective, and presumably would bring it with them to EPA if nominated."

A second state air regulator says that EPA will have to ensure that equity concerns are "baked in" across all policy areas, and not considered a separate issue, in order to achieve Biden's goals.

Relations with the states will also be key, following years of underfunding for both federal and state air programs, and serious conflicts between the Trump EPA and generally Democrat-led states seeking tougher action on pollution.

One Western air regulator tells *Inside EPA* that the prospect of either Ayala or Mirzakhali leading OAR is noteworthy, as they would bring with them a knowledge of Western air quality issues. These include: wildfire, regional haze, interstate and international air pollution, extreme weather events, agricultural emissions, oil and gas drilling and unique topographical challenges that contribute to air pollution problems in states such as California, Colorado and Utah.

As a former senior CARB official, Ayala worked with Nichols on California's ambitious programs to cut GHGs and conventional pollutants such as ozone and particulate matter. His knowledge of emissions trading and vehicle programs would be especially important, sources say. Using its air law authority to adopt tougher vehicle emissions standards than federal limits, California has forged ahead with plans to electrify most vehicles, setting in motion a plan to require all new sales of light-duty vehicles to be "zero emissions" by 2035.

The Trump EPA rescinded California's air law waiver to pursue tougher GHG vehicle standards, and reversing this policy will be key to letting California press forward with its plans, observers say. California is also a pioneer in reducing conventional air pollution such as ozone-forming nitrogen oxides (NOx) from vehicles, including heavy-duty trucks, and the Biden EPA is likely to craft a new, tougher policy in this area after years of delay by the Trump administration.

Meanwhile, Mirzakhilili offers state air experience on both coasts, but is perhaps best known for his work in Delaware, and notably his contribution to the Ozone Transport Commission (OTC), a regional body of 12 Northeastern and Mid-Atlantic states that works to resolve interstate air pollution problems.

As such, Mirzakhilili has an expert knowledge of programs such as CSAPR and how to make them function better to ensure states achieve federal air quality standards, sources say.

Interstate air issues will continue to be key in the region, where some areas such as metropolitan New York are struggling to attain national ambient air quality standards for ozone. -- *Stuart Parker* (sparker@ipwnews.com)

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